

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

NELSON CANAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

NO. 1:02-CR-5366-AWI-SMS

**ORDER DIRECTING CLERK
TO FILE AND SERVE THE
COURT'S MAY 27, 2009
ORDER (DOCUMENT #238)
ON ATTORNEY PATIENCE
MILROD**

On May 27, 2009, the court issued an order (Document #238) on Petitioner Nelson Canas's ("Petitioner") request for relief pursuant to 28 U.S.C. 2255 ("Section 2255"). The court reviewed the record and determined that it did not have sufficient information to render a decision regarding Petitioner's habeas petition (specifically his ineffective assistance of counsel claim). Accordingly, the court directed Petitioner's former defense attorney, Patience Milrod ("Milrod"), to file a declaration regarding the basis of her advice, whether her advice would have been different if she had been aware of Petitioner's prior conviction, and the defenses, if any, that Petitioner would have raised at trial, within thirty (30) days from the date of service of the order. Milrod's declaration was due on or about June 27, 2009. Milrod did not file a declaration. A review of the CM ECF docket, however, appears to indicate that Milrod did not get served with

the May 27, 2009 order.¹ Accordingly, the court directs the clerk to file and serve the court's May 27, 2009 order (Document # 238) on Milrod. Based on the CM ECF docket, Milrod has listed the following contact information:

Law Office of Patience Milrod
844 N. Van Ness Avenue
Fresno , CA 93728
(559) 442-3111
Fax: (559) 442-3164
Email: pm097@csufresno.edu

In light of the fact that Milrod did not appear to get served with the May 27, 2009 order, the new deadlines are as follows:

1. Milrod is directed to file a declaration regarding the basis of her advice, whether her advice would have been different if she had been aware of Petitioner's prior conviction, and the defenses, if any, that Petitioner would have raised at trial, within thirty (30) days from the date of service of this order;
2. Respondent Government shall file and serve additional briefing regarding the strength of the Government's case against Petitioner within sixty (60) days from the date of service of this order; and
3. Petitioner is permitted to submit a response, if any, to Milrod's declaration and the Government's additional briefing within ninety (90) days from the date of service of this order.

IT IS SO ORDERED.

Dated: July 2, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE

¹The May 27, 2009 order also directed the Respondent United States of America ("Government") to file and serve additional briefing regarding the strength of the Government's case against the Petitioner within sixty (60) days from the date of service of the order. Lastly, the order permitted Petitioner to submit a response, if any, to Milrod's declaration and the Government's additional briefing within ninety (90) days from the date of service of the order. Unlike Milrod, it appears that the Government was served with the May 27, 2009 order.